

AFFIDAVIT IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY that on this 16th day of January, 1980, before me, the subscriber, a Notary Public for the State and County aforesaid, personally appeared Coleman J. Lidie, III and made oath in due form of law as follows:

/(and my wife, Nancy L. Lidie)

1. That I am the current fee simple owner of the real property which is the subject of these proceedings, having purchased the same on September 22, 1967 [see Deed of Conveyance, Exhibit D]. That before and after purchasing said property I became familiar with it; the property is densely wooded, with no improvements thereon other than my residence; that there are a number of narrow lodging trails existing thereon coming down from the mountain, none of which are more than three feet wide and can only accomodate a man and a horse.

2. That from the time I purchased the subject property until May, 1979, I observed no other persons on the property for any purposes whatsoever other than an occasional hunter and the Boy Scouts. That in May, 1979, the plaintiff, Silas P. Rice, entered upon the property with heavy equipment and created a new road thereon, wide enough to accomodate motor vehicles. That the course of such new road follows that of an existing logging trail which was theretofore no wider than three feet wide.

3. That in the course of creating such new, wider roadway, the plaintiff removed foliage and numerous trees [ten to twelve inches around], moved large rocks and stones and also moved Defendant's survey marker. The removal of the trees and foliage as aforesaid resulted in increased, unnatural water run-off and substantial damage to my property.

4. That I instituted a trespass case against the plaintiff for such action but the case was NOLLE PROSEQUI because it was determined to be a civil matter [see attached District Court papers, Exhibit E]. That prior to the creation of the new road as aforesaid, I never observed Silas P. Rice, Crummell P. Jacobs, James W. Johnson or Nelson S. Rice on the subject property.

5. That affiant avers that he is competent to be a witness and has